IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN DAVID CUMMINGS,

Plaintiff,

v.

1:23-cv-980

SARAH BIRDSEYE, et al.,

Defendants.

ORDER

This matter is before the court for review of the Memorandum Opinion, Recommendation, and Order ("Recommendation") filed on May 14, 2024, by the United States Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 10.) The Recommendation was served on Plaintiff on May 14, 2024. (Doc. 11.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), as frivolous. Plaintiff filed timely Objections and supplemental documents, (see Docs. 12, 13, 14). Plaintiff also filed a Motion for Issuance of Subpoenas Delivered by Marshalls [sic] Service. (Doc. 15.)

This court is required to "make a <u>de novo</u> determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations

made by the [M] agistrate [J] udge . . . [O] recommit the matter to the [M] agistrate [J] udge with instructions."

The Court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a <u>de</u>

<u>novo</u> determination which is in accord with the Magistrate

Judge's Recommendation. Therefore, this Court therefore adopts the Magistrate Judge's Recommendation.

Plaintiff's motion requesting subpoenas, (Doc. 15), will be denied as moot.

IT IS THEREFORE ORDERED that the Magistrate Judge's

Recommendation, (Doc. 10), is ADOPTED. IT IS FURTHER ORDERED

that Plaintiff's Complaint, (Doc. 3), is DISMISSED pursuant to

28 U.S.C. § 1915(e)(2)(B)(i), as frivolous.

Plaintiff's Motion for Issuance of Subpoenas Delivered by Marshalls [sic] Service, (Doc. 15), is **DENIED** as **MOOT**.

A Judgment dismissing this action will be filed contemporaneously with this Order.

This the 2nd day of July, 2024.

United States District Judge